

**UNITED STATES DISTRICT COURT
WESTER DISTRICT OF TENNESSEE
WESTERN DIVISION**

**LEXINGTON ASSET MANAGEMENT (TN) LLC
and 1437 CENTRAL HOLDINGS, LLC,**

Plaintiffs,

v.

No. _____

**CERTAIN UNDERWRITERS AT LLOYD’S
SUBSCRIBING TO N17NA19000;**

JURY DEMANDED

**SWISS RE CORPORATE SOLUTIONS
CAPACITY INSURANCE CORPORATION
f/k/a FIRST SPECIALTY INSURANCE
CORPORATION;**

**SCOTTSDALE INSURANCE COMPANY
d/b/a NATIONWIDE E&S; and**

**NAVIGATORS SPECIALTY INSURANCE
COMPANY, INC.,**

Defendants.

NOTICE OF REMOVAL

COMES NOW the Defendant, Scottsdale Insurance Company, by and through the undersigned counsel, and hereby gives notice of removal of the above-captioned cause from the Chancery Court of Shelby County, Tennessee, to the United States District Court for the Western District of Tennessee, Western Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446(b). As grounds for removal, Scottsdale states as follows:

Background

1. On August 18, 2023, USI Property Services LLC – Premier Properties II, and Lexington Asset Management, LLC filed a Complaint for Monetary Damages, Declaratory Relief,

38202-240151 (RER)

and/or Injunctive Relief against Lloyd's, Lloyd's Corporation, and Lloyd's America, Inc. in the Chancery Court of Shelby County, Tennessee, bearing Case CH-23-1100. (*See* Pls.' Compl.).

2. On December 22, 2023, Lexington Asset Management (TN), LLC ("LAM") and 1437 Central Holding, LLC ("Central Holding") (collectively "Plaintiffs") filed an Amended Complaint for Declaratory Relief and Monetary Damages against Certain Underwriters at Lloyd's London Subscribing to N17NA19000 ("Underwriters"); Swiss Re Corporate Solutions Capacity Insurance Corporation f/k/a First Specialty Insurance Corporation ("Swiss Re"); Scottsdale Insurance Company d/b/a Nationwide E&S ("Scottsdale"); and Navigators Specialty Insurance Company, Inc. ("Navigators") (collectively "Defendants").

3. In the Amended Complaint, Plaintiffs seek declaratory relief and recovery of monetary damages from Defendants for amounts allegedly due under policies of insurance issued by Defendants which insured Plaintiffs' property located at 1437 Central Avenue, Memphis, Tennessee 38104. (*See* Pls.' Compl., ¶¶23-53).¹

4. On January 26, 2024, Scottsdale received copies of the Alias Summons and Amended Complaint through its registered agent, Corporation Service Company, via certified mail sent by the Tennessee Department of Commerce and Insurance.

5. Scottsdale seeks removal of this action to this Court pursuant to 28 U.S.C. § 1332, based upon grounds that the controversy is wholly between citizens of different states and involves an amount in controversy which exceeds \$75,000.00, exclusive of the interest and costs.

6. Plaintiffs commenced this action in the Chancery Court of Shelby County, Tennessee, which is within the territorial jurisdiction of the United States District Court for the

¹ Plaintiffs assert five causes of action in their Amended Complaint against Defendants: "Count I – Declaratory Relief"; "Count II – Breach of Contract – Insurance Policy"; "Count III – Bad Faith"; "Count IV – The Defendants Must Deposit \$986,968.77 with the Clerk and Master Prior to Filing a Responsive Pleading"; and "Count V – Miscellaneous Relief." (Pls.' Am. Compl., ¶¶32-58).

38202-240151 (RER)

Western District of Tennessee, Western Division. *See* 28 U.S.C. 123(c)(2). Accordingly, removal to this Court is proper. *See* 28 U.S.C. § 1441(a).

Diversity of Citizenship

Plaintiffs

7. LAM “is a Tennessee limited liability company with a principal place of business located in Memphis, Tennessee.” (Pls.’ Am. Compl., ¶2). Upon information and belief, the sole member of LAM is a citizen of Tennessee.

8. Central Holdings “is a Delaware limited liability company with a principal place of business in Memphis, Tennessee.” (Pls.’ Am. Compl., ¶3). Upon information and belief, the sole member of Central Holdings is a citizen of Tennessee.

Defendants

9. Underwriters is a descriptive term used to refer to the participants subscribing to the Policy No. N17NA19000, which are organized under the laws of England and Wales, and which maintain principal places of business in the United Kingdom.

10. Swiss Re is a Missouri corporation with its principal place of business in Kansas City, Missouri.

11. Scottsdale is an Ohio corporation with its principal place of business in Columbus, Ohio.

12. Navigators is a New York corporation with its principal place of business in New York, New York.

Amount in Controversy

13. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

14. In the Amended Complaint, Plaintiffs seek to recover the following monetary

38202-240151 (RER)

damages: “compensatory damages in the amount equal to \$10,000,000 or whatever judgment Plaintiffs obtain”; “bad faith damages in the amount of 25% and attorneys’ fees of 12.5% of the amount of the loss pursuant to Tennessee Code Annotated § 56-7-105”; “punitive damages in amount equal to the greater of twice Plaintiffs’ compensatory damages, \$500,000, or the constitutional limits”; “pre-judgment and post-judgment interest”; and attorney’s fees and costs incurred. (*See* Pls.’ Am. Compl., pp. 9–10).

Procedural Compliance

15. Scottsdale filed this Notice of Removal within the time prescribed by 28 U.S.C. § 1446(b).

16. All other Defendants—Certain Underwriters at Lloyd’s London Subscribing to N17NA190000; Swiss Re Corporate Solutions Capacity Insurance Corporation f/k/a First Specialty Insurance Corporation; and Navigators Specialty Insurance Company, Inc.—consent to the removal of this action by Scottsdale, as evidenced by the Consent to Removal attached hereto as an Exhibit.

17. Scottsdale will, promptly after filing, provide a copy of this Notice of Removal to all adverse parties and to the Clerk of the Chancery Court of Shelby County, Tennessee, in accordance with 28 U.S.C. § 1446(d), promptly after the filing

18. A copy of all process and pleadings filed and/or served in the state court action are attached collectively as an Exhibit hereto in accordance with 28 U.S.C. §§ 1446(a) and 1447(b).

19. Scottsdale reserves the right to supplement or amend this Notice of Removal as necessary and appropriate.

38202-240151 (RER)

WHEREFORE, based on the foregoing, Scottsdale gives notice that the civil action, bearing Case No. CH-23-1100, is hereby removed from the Chancery Court of Shelby County, Tennessee, to this Court.

Respectfully submitted,

RAINEY, KIZER, REVIERE & BELL, PLC

By: s/ Russell E. Reviere

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38202-240151 (RER)

CERTIFICATE OF SERVICE

The undersigned certifies that on the 26th day of February 2024, a copy of the foregoing was served electronically via the Court's electronic case filing system and/or email to the below listed counsel of record:

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s/ Russell E. Reviere
